IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19/09/2003

Coram

The Honourable Mr. Justice V.S. SIRPURKAR
and
The Honourable Mr. Justice AR. RAMALINGAM

H.C.P. No.2576 OF 2002

Chandran
(lodged in Central Prison, Vellore
T.P.D.A. No.4235) ... Petitioner

-Vs-

1. The District Magistrate and
District Collector
Thiruvannamalai District at
Thiruvannamalai

2. State of Tamil Nadu, rep. by
the Secretary to Government
Prohibition and Excise Department
St. George Fort
Madras ... Respondents

Petition under Art.226 of the Constitution, praying for a
Writ of Habeas Corpus as stated in the petition

For Petitioner :: Mr. T.R. Radhakrishnan

For Respondents :: Mr. A. Navaneethakrishnan
Addl. Public Prosecutor
:ORDER

(Order of the Court was made by V.S. SIRPURKAR, J.)

The order dated 15-10-2002, passed by the District Magistrate and District Collector, Thiruvannamalai District at Thiruvannamalai, dubbing one Chandran, son of Kannan, as bootlegger and directing his detention under Sec.3(1) of the Tamil Nadu Act 14 of 1982, is in challenge in this writ petition.

2. The detenu herein is involved in as many as four adverse cases under the Tamil Nadu Prohibition Act, two of which have been committed in 2001 and the other two in 2002. He was also caught while selling poisonous liquor, mixed with atropine, on 30-9-2002 and it is on that basis that Crime

No.485 of 2002 was registered against him under the relevant provisions of the Tamil Nadu Prohibition Act.

3. The first contention of Shri Radhakrishnan, learned counsel for the petitioner, is that the pre-detention representation made by the detenu's wife Bogavathy has not been considered by the detaining authority and that representation has also not been referred to.
3.1. Learned Additional Public Prosecutor, however, points out that that representation was rejected and, therefore, there was no question of again considering the same in the grounds or in the detention order.
3.2. The contention of the learned Public Prosecutor is absolutely correct. The first contention is, therefore, rejected.

4. Secondly the learned counsel for the petitioner points out that the representation dated 23-11-2002 has not been considered expeditiously.
4.1. By way of reply, learned Additional Public Prosecutor files a list of dates which suggests that the representation, which was received by the Government on 25th November, 2002 and the very next day remarks were called for. As many as three days were taken by the Sponsoring Authority and the Detaining Authority to finalise those remarks. Besides, between 28th November and 9th December, there were four holidays. Ultimately, these remarks were received by the Government on 9th December and on the very next day, they were worked upon by the Under Secretary and the Deputy Secretary and the Hon'ble Minister saw them on 12th December and rejected them on 16th. In between these dates also, there were two holidays. Ultimtely, the intimation of the rejection of the representation was given on 19th itself. The second contention is, therefore, rejected.

5. Learned counsel for the petitioner then invited out attention at the grounds and more particularly the portion in paragraph (e) where it is stated that the Doctor had suggested that the symptoms experienced by Sekar are usually seen in cases like poisoning with atropine and he has further stated that if a person consumed the arrack mixed with atropine (fatal dose) a dose of 6.0 mgms per 100 ml. it may even cause death depending upon the quantity of such arrack consumed with reference to the individual's physical capacity and constitution. Learned counsel says that at page 21 in the Doctor's statement, this is not to be seen.
5.1. We have gone through the statement carefully and find that the conclusion drawn by the detaining authority and the report of the Doctor's statement is also covered by the said statement. The complaint that there is nothing is also incorrect.

6. Learned counsel then pointed out that the portion of pages 12 and 25 of the paper-book are in English and their Tamil versions were not supplied to the detenu at all though the detenu specifically asked for. The document at page 12, which is in English, is a warrant form, which is not a relied upon document. What was relied upon was the order by the Magistrate ordering the remand. Therefore, even if the document is in English and its translation was not supplied, it cannot bring any cloud on the detention. Same is the situation in respect of the document at Page 25. They are the

receipts for the fine paid by the detenu in his earlier convictions. It is trite law that these documents, which are in prescribed form, would not be required to be translated and supplied to the detenu. Again, these receipts of the fine paid cannot be said to be and are really not the relied upon documents. They are merely referred to documents in the statement while stating the convictions against the detenu. Therefore, there would be no prejudice caused by non-supply. This contention is also rejected.

7. Lastly, learned counsel for the petitioner says that the intimation to him regarding the sitting of the Advisory Board was given to him only on 31-10-2002 at about 4.00 p.m. and the sitting took place on 5-11-2002. He says that he could not have intimated his kith and kin to remain present or to represent on his behalf before the Advisory Board. Learned counsel says that this would be a short intimation particularly in view of the fact that the next day was Friday and there was no possibility of his meeting of the relatives because the visit-days are only Tuesday and Thursday.

7.1. Learned Additional Public Prosecutor points out that the detenu could have given the intimation by post. This is besides the fact that the detenu has not sought for any adjournment before the Advisory Board though the Advisory Board specifically asked about it. Under the circumstances, there will be no question of the detenu suffering any prejudice on account of the alleged short notice of five days. In our opinion, the notice of five days was sufficient enough during which time, the petitioner could have prepared.

8. No other point was urged by the learned counsel for the petitioner.

9. In short, we find that the writ petition is devoid of merits. It is dismissed.

Internet : Yes
Jai

To:

1. The District Magistrate and
District Collector
Thiruvannamalai District at
Thiruvannamalai

2. State of Tamil Nadu, rep. by
the Secretary to Government
Prohibition and Excise Department
St. George Fort
Madras

3. The Public Prosecutor
High Court
Madras